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Today's editorial: Real steal posing as the real deal

The eminent domain lobby uses a deceptive strategy to stop real reform.



An Orange County Register Editorial

The California League of Cities and other supporters of the government's use of eminent domain to transfer private property to big developers know that these policies are unpopular. So, instead of coming right out and admitting that they want government to retain that power to undermine property rights, they have embraced a deceptive strategy designed to scare voters away from a substantive grass-roots reform initiative that is gaining steam.

The Howard Jarvis Taxpayers Association is collecting signatures for the California Property Owners and Farmland Protection Act (CPOFPA), which would include serious restrictions against the common abuse of eminent domain – a situation made particularly grave by the U.S. Supreme Court's Kelo decision in 2005 upholding the "right" of cities to engage in these aggressive, property-rights-destroying redevelopment policies. The Jarvis initiative, which is on track for the June 2008 ballot, also would phase out another common assault on property rights – rent control.

Given public opinion polls showing widespread outrage at Kelo, big-government groups like the League of Cities know they face a difficult task in stopping any well-funded initiative. So they have come up with their own initiative (and some companion legislation) that pretends to reform eminent domain but actually locks the current situation in place, with superficial improvements here and there. The Assembly Appropriations Committee on Thursday passed an amendment to Assembly Constitutional Amendment 8, which will now proceed to the Assembly floor. It needs a two-thirds vote and then Senate passage before heading to voters.

The second part of the pro-eminent-domain strategy is equally deceptive. The same organizations supporting ACA8 are claiming that the CPOFPA would forbid the use of eminent domain to create water-storage facilities. This is a cheap scare tactic, designed in part to convince Gov. Arnold Schwarzenegger – who is committed to rebuilding the state's water infrastructure – to oppose it.

"The California Property Owners and Farmland Protection Act preserves existing legitimate uses of eminent domain, including the provision of public utilities such as water," explains Timothy Sandefur, an attorney with Pacific Legal Foundation in Sacramento. "What the Act would prohibit is the seizure of private water rights, or the mere expropriation of private water companies. Such seizures have become unfortunately common, thanks to government's manipulation of virtually every aspect of the economy in California."

Here's Sacramento deception at its worst – the promotion of an initiative designed to accomplish the very opposite of what its supporters claim, and phony claims about another initiative designed to muddy the waters and scare people into opposing it.

What's next?

One can only guess as opponents of eminent domain become more desperate to stop reform.

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